

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Keith E. Kropf
SERIAL NO.: 10/777,251
TITLE: DISPOSABLE DIAPER WITH SEALABLE ENCLOSURE
AND METHOD FOR SEALING AND DISPOSING OF
THE SAME
FILED: February 12, 2004
GROUP/A.U.: 3761
Confirmation No.: 5403
EXAMINER: Michael G. Bogart
Atty. Docket No.: P06716US0

Mail Stop Reply Brief - Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REPLY TO EXAMINER'S ANSWER

This brief is submitted in response to the Examiner's Answer of August 22, 2007, and pursuant to 37 CFR § 41.41 in furtherance of the Appeal Brief originally submitted for this application on March 23, 2006.

CERTIFICATE OF MAILING (37 C.F.R. § 1.8(a))

I hereby certify that this document and the documents referred to as enclosed therein are being deposited via e-file or with the United States Postal Service as First Class mail addressed to: Commissioner for Patents, Alexandria, VA 22313-1450, on this 22nd day of October, 2007.



Josef L. Hoffmann

REMARKS

In answer to the Appellant's Brief the Examiner has maintained her rejection of the claims. Specifically, the Examiner has maintained her rejections of claims 1-8, 10 and 11 under 35 U.S.C. § 102(b) as being anticipated by Ives, and claim 9 under 35 U.S.C. § 103(a). In reply, the Appellant continues to traverse the Examiner's rejections.

Claim 1 in part requires "a second layer having an interior surface secured to the diaper body" and also requires a means for sealing the pocket for contained waste and odor on an exterior surface of the second layer. The reference to Ives does not teach these limitations. Instead Ives teaches a layer 14 that has an interior surface that is secured to the diaper 10 and additionally has a strip 52 of an adhesive on that same interior surface. (See Col. 4, lines 39-40). Thus Ives does not teach a second layer that is both secured to the diaper body on an interior surface and has a sealing means on an exterior surface.

The Examiner asserts that: "[t]he sealing means 52 [of Ives] can be reasonably construed as being on the outer surface of the second layer (44) as it lies against that surface via intermediate peel strip (56) which prevents sealing (52) means from prematurely adhering to second layer 44." (See Examiner's answer, pg. 7). The claim, however, requires that the "securing means" be "on the outer surface of the second layer". Ives simply does not teach this limitation, and rather teaches strip 52 of an adhesive on the interior surface (face 16) of the exterior layer 14. As Ives teaches, the placement of the adhesive strip 52 is so the diaper may be rolled up and held in a rolled up orientation in anticipation of its disposal.

Because Ives does not teach a sealing means on the exterior surface of the second layer it cannot anticipate claims 1-5.

Independent claim 6 contains the limitation "inverting the pocket to receive the diaper body" and also requires "sealing the pocket to enclose the diaper body to form an airtight seal". The placement of the sealing means on the exterior surface of the second layer is the only way the pocket may be sealed once it is inverted. As discussed above, the Ives reference does not teach inverting the pocket such that an airtight seal is formed and thus each and every limitation of amended claim 6 is not met and the anticipation rejection is considered overcome.

Independent claim 7 requires "a means for sealing the pocket for containing waste and odor such that when the pocket is inverted the means for sealing forms an airtight seal". Once again, as discussed above, this limitation is not taught within the Ives reference and the anticipation rejection is considered overcome.

The Examiner argues that Ives teaches a means 52 for sealing the pocket 48 for containing waster and odor such that when the pocket is inverted the means for sealing forms an air tight seal and cites column 4, lines 61-67 and Fig. 4. Additionally, the Examiner argues that sealing pocket 48 encloses diaper body 26 to form an air tight seal citing the zip lock reference from column 1, line 55-column 2, line 29 and again column 4, lines 61-67. Applicant disagrees with the Examiner's assessment. Specifically, the Ives reference does not teach inverting the diaper and instead teaches rolling it into itself as best seen in Fig. 4. (See also Col. 4, lines 39-48). Applicant asserts that because the diaper does not invert that at the very ends of the elongated slip 48 of Ives as most closely seen as numeral 48 in Fig. 4, that an air tight seal

cannot be formed as Applicant asserts that Ives does not teach sealing at this very corner spot wherein odor is released. Consequently, because of the inverted nature of the present invention, an air tight seal can be created providing an advantage over the prior art. Thus, at the very least, the Examiner has not met the initial *prima facie* burden of anticipation and each and every limitation of the claims is not taught by the Ives reference. Therefore, Applicant respectfully requests reversal of all claims.

CONCLUSION:

If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200.

There are no fees or extensions of time believed to be due in connection with this reply; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-2098.

Respectfully submitted,



Josef L. Hoffmann
Reg. No. 56,203
ZARLEY LAW FIRM, P.L.C
Capital Square
400 Locust Street, Suite 200
Des Moines, IA 50309-2350
Phone No. (515) 558-0200
Fax No. (515) 558-7790
Customer No. 34082
Attorneys of Record

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